

## **MINUTES**

### **MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN CHUCK SWYSGOOD**, on January 7, 1999 at 1:58 P.M., in Room 108 Capitol.

#### **ROLL CALL**

**Members Present:**

Sen. Chuck Swysgood, Chairman (R)  
Sen. Tom Keating, Vice Chairman (R)  
Sen. Tom A Beck (R)  
Sen. Chris Christiaens (D)  
Sen. William Crismore (R)  
Sen. Eve Franklin (D)  
Sen. Greg Jergeson (D)  
Sen. Bob Keenan (R)  
Sen. J.D. Lynch (D)  
Sen. Dale Mahlum (R)  
Sen. Ken Mesaros (R)  
Sen. Ken Miller (R)  
Sen. Arnie Mohl (R)  
Sen. Linda Nelson (D)  
Sen. Debbie Shea (D)  
Sen. Mike Taylor (R)  
Sen. Mignon Waterman (D)

**Members Excused:** Sen. Daryl Toews (R)

**Members Absent:** None.

**Staff Present:** Shannon Gleason, Committee Secretary  
Clayton Schenck, Legislative Fiscal Analyst

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: SB17, 1/4/1999; SB45, 1/4/1999;  
SB55, 1/4/199  
Executive Action: None

HEARING ON SB 55

Sponsor: SENATOR MIKE TAYLOR, SD 37, PROCTOR

Proponents: None

Opponents: None

Opening Statement by Sponsor:

SENATOR MIKE TAYLOR, SD37, PROCTOR, stated SB 55 was requested by the Legislative Finance Committee. During the interim a concern was raised regarding the funding activities of some Enterprise programs. This bill is to change the funding of the Enterprise accounts and bring them back under the budget review of the Legislative Finance Committee.

Questions from the Committee and Responses:

VICE CHAIRMAN TOM KEATING asked if the Legislative Finance Committee supported the bill, as it was not signed by them.

CHAIRMAN CHUCK SWYSGOOD advised the committee was in support.

Informational:

Gerald LaChere, Director of the Montana Lottery, advised the Lottery and the Lottery Budget Commission has concerns because the Lottery budget fluctuates due to expenses, and thus could reduce the dollars being provided to the General Fund. Mr. LaChere explained there are two types of expenses the Lottery incurs; those spent to make money, such as producing scratch tickets, and those spent on contracts and fees, such as the online contract for the computer terminals that produce tickets, allows for communication, and verification of winning tickets. The expenses for the scratch tickets would increase as volume increases. The expense for the online contract with the computer system fluctuates due to contract bidding and is not controlled by the Lottery but the contractors bidding the service. These fees have varied from 25% the first year to 11% the current year. This is necessary to bid out because the current system is not year 2000 compliant and the Lottery does not own the system. Current contract provides for a new system and ownership of the system after 7 years. Mr. LaChere advised these decisions are not made by the staff but by the Lottery Commission, which consists of a CPA, attorney, law officer, and 2 business people. These people review and supervise the commission closely and do not spend to spend but spend to increase revenue. Mr. LaChere feels there is no need to regulate the Lottery further.

**Mr. LaChere** raised a technical issue with Section 3 as there is no effective date and thus would be effective 10/1/1999. There is no way the Lottery can meet the appropriation authority by this date and would not be formally appropriated. **Mr. LaChere** suggested the date be changed to 7/1/2001 to be in place when the appropriations have been approved.

**Mary Bryson, Director of Department of Revenue**, advised this bill impacts the Department of Revenue through the Liquor Division.

**Ms. Bryson** felt current law **17-71-23** does provide significant oversight of the Enterprise Fund for both the Lottery and Liquor Enterprise Committee as it requires the executive branch to report on all funds to both committees of the Legislator and the Legislative Fiscal Analyst. This report must include projected retainers using contributed capital on the operation, charges, and fund balances. These funds are also reported in detail in the Executive Budget. **Ms. Bryson** expressed concern with a set budget because the Liquor Division has fluctuating costs due to demand that can not be foreseen.

**Curtis Nichols, Budget Office** suggested an amendment to clarify the wording be added to page 2, line 4 in subsections 3 and 8.

**Mr. Nichols** requested inserting the words "**enterprise funds that transfer**" after the first "or".

**Terry Johnson, Legislative Fiscal Division**, explained the reason for this bill was due to the Lottery expenses being higher than had been budgeted and therefore was effecting the General Fund with reduced contribution. Mr. Johnson feels it is important that the Legislative Finance Committee review the budgets in detail and the Legislators appropriate the funds.

**CHAIRMAN SWYSGOOD** asked **Mr. LaChere** why they opposed taking their budget to the legislature. **MR. LaChere** responded that there was no opposition to submitting the budget, however there was concern regarding the response time of requests for funds. **Ms. Bryson** also indicated that was the concern of the Department of Revenue because they are market driven and projecting expenses is a problem as it is hard to project supply and demand. **CHAIRMAN SWYSGOOD** advised the Finance Committee meets every 90 days and there was the availability at that time to make adjustments to the budgets.

**SENATOR ARNIE MOHL** asked **Ms. Bryson** if the Department of Revenue could gets bids for 1 year, her response was no, that the liquor products were ordered upon demand and that the state did not actually own the products, they warehoused them for the vendor. The liquor was paid for at the time the store purchases the

product. The money goes into the Liquor Enterprise Fund and at the end of the fiscal year it is transferred to the General Fund.

**SENATOR DALE MAHLUM**, asked **Ms. Bryson** the dating time of the product, **Ms. Bryson** advised the product must be paid for within 30 days of delivery and again stressed the state does not purchase the product until a vendor orders it. The product is warehoused but the inventory is not owned by the state.

**SENATOR MIKE TAYLOR** asked **Ms. Bryson** if the 30 day repay time was standard. The response was yes. **Ms. Bryson** indicated there were peak times for supply and during those times the vendor would increase the inventory being warehoused.

**CHAIRMAN SWYSGOOD** asked **Dave Lewis** if the Department of Revenue and Lottery Division could get emergency funds if this bill was passed. **Mr. Lewis** responded that it was possible.

**SENATOR BOB KEENAN** asked **MS. Bryson** what happens to the monies from the products once they were sold. **Ms. Bryant** responded that they are required to turn over the profit and that can not be determined until year end.

**SENATOR ARNIE MOHL** asked **Ms. Bryson** what happens to the interest earned on the monies. **Ms. Bryson** responded that the interest is also turned over to the General Fund.

**Closing:**

**SENATOR TAYLOR** asked the committee to carefully consider this bill and also asked to have an amendment to the wording as suggested by **Curtis Nichols**.

**HEARING ON SB 45**

**Sponsor:** **SENATOR CHUCK SWYSGOOD, SD 17, DILLON**

**Proponents:** **Riley Johnson, Nation Federation of Independent Businesses**

**Opponent:** **David Lewis, Director, Governor's Office of Budget and Planning**  
**Mike Foster, National Contractors Association**

**Opening Statement by Sponsor:**

**SENATOR CHUCK SWYSGOOD** reported the budget increases at a rate of approx. 7% while the economy is increasing at a rate of approx. 2.9%. The current legislation is very ambiguous as to the budget cap. This bill limits the growth of spending based on the Consumer Price Index. There is no effective date on the bill and thus would be effective this session. **SENATOR SWYSGOOD** commented he would be willing to change that. **SENATOR SWYSGOOD** also announced an amendment was being drafted to exempt the Highway Funds. This bill does not affect the Federal money allocated to projects, it does affect the matching funds.

**Proponents' Testimony:**

**Riley Johnson** testified that the National Federation of Small Businesses supports this bill because the taxes being paid for the increasing budget are hurting small businesses and the size and needs of the state government are out of control.

**Opponents Testimony:**

**David Lewis** opposes this bill on two issues. 1) The Budget and Planning office feels it restricts the Governor asking for money for the budget. **Mr. Lewis** feels the Governor should have the flexibility to ask for what ever is seen as appropriate in the budget and this does not allow for that. 2) **Mr. Lewis** feels this would also change the original expenditure limit and that the Legislature could not change the appropriation. The concern is the reduction of the Governor's General Fund Budget and it is unsure how the Governor would handle the bill if it were passed.

**Mike Foster** reported this bill without the amendment on highways will have a negative impact on the state. The Contractors Association would support the bill with the amendment. **Mr. Foster** recommended the Building construction portion be reviewed to see the effect of the spending on the projects.

**Questions From the Committee:**

**SENATOR FRANKLIN** questioned **SENATOR SWYSGOOD** why the amendments specific to the highway money{*Tape : 1; Side : B; Approx. Time Counter : 0; Comments : beginning of side B*}

**SENATOR SWYSGOOD** responded the bill excludes several items from the cap, highway funds due to recent passage of the Federal Highway Bill and the deterioration of our interstructure of the

state. These monies are all state special revenue monies, there are no General Fund monies in this budget.

**SENATOR BECK** to **SENATOR SWYSGOOD** would this bill limit us to the inflation factor for corrections, and if so what is our alternative? **SENATOR SWYSGOOD** response was you would need to decide if the inflation factor was bi-annual and that might help.

**SENATOR TAYLOR** questioned if there are emergency provisions if need for prisoners? **SENATOR SWYSGOOD** advised there were emergency provisions if it were declared and advised a 2/3 vote of the legislature can exceed.

**SENATOR BECK** asked if supplementals were covered, the response from **SENATOR SWYSGOOD** was if it fell within the cap yes, if it fell outside the cap, no.

**SENATOR KEATING** asked if new programs were effected, the response from **SENATOR SWYSGOOD** was yes, they would have to fall under the cap.

**SENATOR MAHLUM** asked if it were possible to end up with more surplus than usual, the response from **SENATOR SWYSGOOD** was it is a possibility.

**SENATOR JERGESON** asked if this were aggregate of General Funds and State Special Revenue Funds, the response from **SENATOR SWYSGOOD** was yes, all funds other than Federal Funds. **SENATOR JERGESON** asked if specific departments needed higher increases, would the increases have to come from the General Fund, the response from **SENATOR SWYSGOOD** was yes.

**CLOSING:**

**SENATOR SWYSGOOD** reiterated the reason for the bill was the growth of government was increasing at a rate the tax payers could not keep up with. **SENATOR SWYSGOOD** advised he would be happy to consider, and thought the % cap should be discussed and welcomed any comments.

**HEARING ON SB 17**

**Sponsor:** **SENATOR EVE FRANKLIN, SD 21, GREATFALLS**

**Proponents:** **David Lewis, Director, Governor's Office of Budget and Planning**

**Opponents:** **None**

**Opening Statements by Sponsor:**

**SENATOR EVE FRANKLIN** advised this bill was as the request of the Legislative Finance Committee and is a result of an agency moving money back and forth across fiscal years. The appropriation asked for and approved was based on the lesser amount, however the agency moved money into the account and then had their budget plus the extra money moved. The bill allows for the transfer once and no more.

**Opponents' Testimony:**

**Dave Lewis** stated he felt this bill was unnecessary as it had only happened once. **Mr. Lewis** explained the budget requested would have been larger and feels it still would have been approved. **Mr. Lewis** also felt it would not happen again.

**Questions From Committee Members:**

**SENATOR BECK** asked if the money could have been spent instead of being reverted back. **Mr. Lewis** responded that it could have been.

**SENATOR WATERMAN** asked if this would give the agency an incentive to spend the money rather than revert it back. **Mr. Lewis** advised he felt that would be the case.

**SENATOR SWYSGOOD** commented that while on the surface this may have only happened once, it can set a precedent. The Finance Committee felt the appropriations requested and numbers submitted should be as close to the true figures as can be.

**Closing by Sponsor:**

**SENATOR FRANKLIN** indicated the real issue is accountability. When budgets are submitted they should be as true as possible. **SENATOR FRANKLIN** advised she felt the figures had the potential to be skewed and the Finance Committee wasn't examining the true picture.

**ADJOURNMENT**

Adjournment: 2:55 P.M.

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SEN. CHUCK SWYSGOOD, Chairman

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SHANNON GLEASON, Secretary

CS/SG

**EXHIBIT (fcs04aad)**